

2005 DRAFTING REQUEST

Bill

Received: **04/12/2006**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing: **Sharon Little**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kessler@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Donations to common school fund

Instructions:

Per AB-998 + AA1, but apply only to common school fund. P/C w/ Sharon Little, 4/17/06- change current law to remove contribution to charitable organization as an option when choice is currently permissible.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 04/16/2006	jdyer 04/17/2006		_____			
/1			pgreensl 04/17/2006	_____	mbarman 04/17/2006		
/2	jkuesel 04/19/2006	kfollett 04/19/2006	rschluet 04/20/2006	_____	sbasford 04/20/2006	bkraft 04/24/2006	

FE Sent For:

NO

<END>

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/1	jkuesel						
/2	jkuesel 4/19/06	12 kgf 4/19	pgreensl 04/17/2006		mbarman 04/17/2006		

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1/1	jkuesel 4/14/06	1 4/17 jkd	4/17 PS	4/17 PS/15			

FE Sent For:

<END>

-4913/1
stays

TUE 4/18

2005 ASSEMBLY BILL 998

February 7, 2006 - Introduced by Representatives FREESE, AINSWORTH, ALBERS, BIES, CULLEN, GUNDERSON, HAHN, KRAWCZYK, MONTGOMERY, MUSSER, POCAN, PETTIS, PETROWSKI, TRAVIS and TURNER, cosponsored by Senators A. LASEE and OLSEN. Referred to Committee on Campaigns and Elections.

Regen

- 1 AN ACT *to amend* 11.25 (2) (b); and *to create* 11.65 of the statutes; **relating to:**
 2 authorization for registrants under the campaign finance law to make
 3 donations to charitable organizations or the common school fund from
 4 campaign treasuries.

Analysis by the Legislative Reference Bureau

Currently, with certain exceptions, a registrant under the campaign finance law is generally prohibited from making a disbursement (expenditure) from moneys solicited for political purposes for a purpose that is other than political. However, a registrant that receives a contribution from an unregistered nonresident, an unlawful corporate contribution, an anonymous contribution exceeding \$10, or a cash contribution exceeding \$50 may donate the contribution to a charitable organization or to the state common school fund. In addition, residual moneys in a campaign treasury when a registrant ceases financial activity may be treated likewise.

This bill provides that a registrant may make a donation from a campaign treasury to a charitable organization or to the common school fund at any time for any reason.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 998

SECTION 1

1 **SECTION 1.** 11.25 (2) (b) ^x of the statutes is amended to read:

2 11.25 **(2)** (b) Notwithstanding par. (a), a registrant may accept contributions
3 and make disbursements from a campaign depository account for the purpose of
4 making expenditures in connection with a campaign for national office; for payment
5 of civil penalties incurred by the registrant under this chapter but not under any
6 other chapter; for the purpose of making a donation to a charitable organization or
7 the common school fund; or for payment of the expenses of nonpartisan campaigns
8 to increase voter registration or participation. Notwithstanding par. (a), a personal
9 campaign committee or support committee may accept contributions and make
10 disbursements from a campaign depository account for payment of inaugural
11 expenses of an individual who is elected to state or local office. If such expenses are
12 paid from contributions made to the campaign depository account, they are
13 reportable under s. 11.06 (1) as disbursements. Otherwise, such expenses are not
14 reportable under s. 11.06 (1). If contributions from the campaign depository account
15 are used for such expenses, they are subject to s. 11.26.

16 **SECTION 2.** 11.65 ^x of the statutes is created to read:

17 **11.65 Donations to charitable organizations or school fund.** Any
18 registrant may make a donation to a charitable organization or the common school
19 fund from the registrant's campaign treasury. INS 2-19

**ASSEMBLY AMENDMENT 1,
TO 2005 ASSEMBLY BILL 998**

FWS 2-19

February 28, 2006 - Offered by Representatives FREESE and BLACK.

At the locations indicated, amend the bill as follows:

1. Page 2, line 19: after "treasury." insert "No later than 5 days after a registrant makes a donation to a charitable organization or the common school fund from a campaign treasury, the registrant shall notify the registrant's filing officer in writing of the name of the donee and the date of the donation, and shall provide an explanation for not retaining the amount donated in the registrant's campaign treasury."

(END)

(end ins 2-19)

FRI 4/21

2005 BILL

(regenerate)

1 AN ACT ~~to amend~~ 11.25 (2) (b); and ~~to create~~ 11.65 of the statutes; relating to:

2 ~~disposition of certain contributions or other moneys in~~

3 ~~authorization for registrants under the campaign finance law to make~~

~~donations to the common school fund from campaign treasuries.~~

Analysis by the Legislative Reference Bureau

Currently, with certain exceptions, a registrant under the campaign finance law is generally prohibited from making a disbursement (expenditure) from moneys solicited for political purposes for a purpose that is other than political. However, a registrant that receives a contribution from an unregistered nonresident, an unlawful corporate contribution, an anonymous contribution exceeding \$10, or a cash contribution exceeding \$50 may donate the contribution to a charitable organization or to the state common school fund. ~~In addition,~~ residual moneys in a campaign treasury when a registrant ceases financial activity may be treated likewise. ~~In addition, an anonymous contribution exceeding \$10 must be donated~~

~~This bill provides that a registrant may make a donation from a campaign treasury to the common school fund at any time for any reason.~~

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 11.25 (2) (b) of the statutes is amended to read:

~~eliminates the option to transfer contributions or other moneys to a charitable organization in the above described circumstances~~ described above

BILL

SECTION 1

In 5 Attached

1 11.25 (2) (b) Notwithstanding par. (a), a registrant may accept contributions
2 and make disbursements from a campaign depository account for the purpose of
3 making expenditures in connection with a campaign for national office; for payment
4 of civil penalties incurred by the registrant under this chapter but not under any
5 other chapter; for the purpose of making a donation to the common school fund; or
6 for payment of the expenses of nonpartisan campaigns to increase voter registration
7 or participation. Notwithstanding par. (a), a personal campaign committee or
8 support committee may accept contributions and make disbursements from a
9 campaign depository account for payment of inaugural expenses of an individual
10 who is elected to state or local office. If such expenses are paid from contributions
11 made to the campaign depository account, they are reportable under s. 11.06 (1) as
12 disbursements. Otherwise, such expenses are not reportable under s. 11.06 (1). If
13 contributions from the campaign depository account are used for such expenses, they
14 are subject to s. 11.26.

15 SECTION 2. 11.65 of the statutes is created to read:

16 **11.65 Donations to common school fund.** Any registrant may make a
17 donation to the common school fund from the registrant's campaign treasury. No
18 later than 5 days after a registrant makes a donation to the common school fund from
19 a campaign treasury, the registrant shall notify the registrant's filing officer in
20 writing of the date of the donation, and shall provide an explanation for not retaining
21 the amount donated in the registrant's campaign treasury.

22 (END)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4913/2ins
JTK.....

✓

X **SECTION 1.** 8.35 (4) (a) 1. a. and b. of the statutes, as affected by 2005 Wisconsin Act 177, ^{are} is amended to read:

8.35 (4) (a) 1. a. Donated to the former candidate's local or state political party if the former candidate was a partisan candidate or donated to the charitable organization of the former candidate's choice or the charitable organization chosen common school fund if so elected by the former candidate or by the former candidate's next of kin if the former candidate is deceased, or if no choice election is made returned to the donors on a proportional basis; or

NOTE: NOTE: Subpar. a. was amended eff. 7-1-03 by 2001 Wis. Act 109 as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

a. If the former candidate was a partisan candidate, donated to the former candidate's local or state political party, donated to a charitable organization or transferred to the board for deposit in the Wisconsin election campaign fund, as instructed by the former candidate or, if the candidate left no instruction, by the former candidate's next of kin; or

b. If the former candidate was a nonpartisan candidate, donated to the charitable organization of the former candidate's choice or the charitable organization chosen common school fund if so elected by the former candidate or by the former candidate's next of kin if the former candidate is deceased; or

NOTE: NOTE: Subpar. b. was amended eff. 7-1-03 by 2001 Wis. Act 109 as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

b. If the former candidate was a nonpartisan candidate, donated to a charitable organization or transferred to the board for deposit in the Wisconsin election campaign fund, as instructed by the former candidate or, if the candidate left no instruction, by the former candidate's next of kin; or

X **SECTION 2.** 8.35 (4) (a) 1. c. of the statutes is amended to read:

8.35 (4) (a) 1. c. If no choice election is made, returned to the donors on a proportional basis, with contributions which cannot be identified donated in accordance with subd. 1. a. or b.

History: 1973 c. 334; 1975 c. 93; 1977 c. 107, 340; 1979 c. 110 s. 60 (11); 1979 c. 311; 1983 a. 484; 1985 a. 131 s. 3; 1985 a. 303 s. 88; 1985 a. 304; 1987 a. 391; 1993 a. 184; 1995 a. 225; 1999 a. 182; 2001 a. 109.

✓

SECTION 3. 11.01 (2) of the statutes is repealed.

SECTION 4. 11.06 (1) (e) of the statutes, as affected by 2005 Wisconsin Act 177, is amended to read:

X 11.06 (1) (e) An itemized statement of contributions over \$20 from a single source donated to ~~a charitable organization or to~~ the common school fund, with the full name and mailing address of the donee.

NOTE: NOTE: Par. (e) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in *Wisconsin Realtors Assoc. v. Ponto*, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

(e) An itemized statement of contributions over \$20 from a single source donated to a charitable organization or to the common school fund, with the full name and mailing address of the donee, and a statement of contributions over \$20 transferred to the board for deposit in the Wisconsin election campaign fund.

History: 1973 c. 334; 1975 c. 93 ss. 47 to 53, 119 (2); 1975 c. 199; 1979 c. 263, 328; 1985 a. 303; 1987 a. 370; 1989 a. 192; 1995 a. 16 s. 2; 2001 a. 109.

SECTION 5. 11.07 (5) of the statutes, as affected by 2005 Wisconsin Act 177, is amended to read:

X 11.07 (5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may not use or expend such contribution but shall immediately return it to the source or at the option of the campaign treasurer or individual, donate the contribution to ~~a charitable organization or to~~ the common school fund.

NOTE: NOTE: Sub. (5) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in *Wisconsin Realtors Assoc. v. Pinto*, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

(5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may not use or expend such contribution but shall immediately return it to the source or at the option of the campaign treasurer or individual, donate the contribution to a charitable organization or to the common school fund or transfer the contribution to the board for deposit in the Wisconsin election campaign fund.

History: 1973 c. 334; 1975 c. 93, 199; 1991 a. 316; 2001 a. 103, 109.

SECTION 6. 11.12 (2) of the statutes, as affected by 2005 Wisconsin Act 177, is amended to read:

11.12 (2) Any anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The contribution shall be donated to the common school fund ~~or to any charitable organization at the option of the treasurer.~~

NOTE: NOTE: Sub. (2) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in *Wisconsin Realtors Assoc. v. Ponto*, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

(2) Any anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization or transferred to the board for deposit in the Wisconsin election campaign fund, at the option of the treasurer.

History: 1973 c. 334; 1975 c. 93 ss. 59, 60, 119 (2); 1975 c. 199; 1979 c. 328 ss. 53, 69 to 71, 146; 1985 a. 303; 1987 a. 370; 2001 a. 109.

✓
SECTION 7. 11.16 (2) of the statutes, as affected by 2005 Wisconsin Act 177, is amended to read:

11.16 (2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, or donate it to the common school fund or to a charitable organization in the event that the donor cannot be identified.

NOTE: NOTE: Sub. (2) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in *Wisconsin Realtors Assoc. v. Ponto*, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

(2) LIMITATION ON CASH CONTRIBUTIONS. Every contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, donate the contribution to the common school fund or to a charitable organization, or transfer the contribution to the board for deposit in the Wisconsin election campaign fund in the event that the donor cannot be identified.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1985 a. 303; 2001 a. 109.

✓
SECTION 8. 11.19 (1) of the statutes, as affected by 2005 Wisconsin Act 177, is amended to read:

X
X
11.19 (1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, or donated to a charitable organization or the common school fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with a termination report filed under this subsection. If a termination

report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20. This subsection does not apply to any registrant making an indication under s. 11.05 (2r).

NOTE: NOTE: Section 11.19 (title) and (1) are amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

11.19 Carry-over of surplus funds; dissolution of registrants; termination reports. (1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, transferred to the board for deposit in the Wisconsin election campaign fund or donated to a charitable organization or the common school fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). A registrant to which s. 11.055 (1) applies shall pay the fee imposed under that subsection with a termination report filed under this subsection. If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20 and, if the registrant files reports under s. 11.21 (16), no later than the times specified in s. 11.21 (16). This subsection does not apply to any registrant making an indication under s. 11.06 (2m).

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303; 1997 a. 27; 2001 a. 109.

SECTION 9. 11.23 (2) of the statutes, as affected by 2005 Wisconsin Act 177, is amended to read:

11.23 (2) Any anonymous contribution exceeding \$10 received by an individual or group treasurer may not be used or expended. The contribution shall be donated to the common school fund ~~or to any charitable organization at the option of the treasurer.~~

NOTE: NOTE: Sub. (2) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

(2) Any anonymous contribution exceeding \$10 received by an individual or group treasurer may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization or transferred to the board for deposit in the Wisconsin election campaign fund, at the option of the treasurer.

History: 1973 c. 334; 1975 c. 93 ss. 87, 119 (1), (2); 1975 c. 199; 1979 c. 328 ss. 103, 146; 1985 a. 303 ss. 43, 86; 1985 a. 332 s. 253; 1987 a. 370; 2001 a. 109.

SECTION 10. 11.38 (6) of the statutes, as affected by 2006 Wisconsin Act 177, is amended to read:

11.38 (6) Any individual or campaign treasurer who receives funds in violation of this section shall promptly return such funds to the contributor or donate the funds to the common school fund ~~or a charitable organization, at the treasurer's option.~~

NOTE: NOTE: Sub. (6) was amended eff. 7-1-03 by 2001 Wis. Act 109 to read as shown below. Act 109, s. 9115, provided that if any treatments by Act 109 listed in s. 9115, including the treatment of this provision, was held to be unconstitutional by a court, then all of the listed treatments are void. The United States District Court for the Western District of Wisconsin in Wisconsin Realtors Assoc. v. Ponto, 233 F. Supp. 2d 1078 (2002), found the treatment of certain listed provisions unconstitutional, rendering the treatment of this provision void. NOTE:

(6) Any individual or campaign treasurer who receives funds in violation of this section shall promptly return such funds to the contributor, donate the funds to the common school fund or a charitable organization or transfer the funds to the board for deposit in the Wisconsin election campaign fund, at the treasurer's option.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 328; 1985 a. 303 ss. 71, 72, 86; 1987 a. 370; 1991 a. 316; 2001 a. 109.

SECTION 11. Initial applicability.

(1) This act first applies with respect to contributions received on the effective
date of this subsection.

(END)

Kraft, Becky

From: Little, Sharon
Sent: Monday, April 24, 2006 11:12 AM
To: LRB.Legal
Subject: Draft Review: LRB 05-4913/2 Topic: Donations to common school fund

Please Jacket LRB 05-4913/2 for the ASSEMBLY.